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THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala

Report of the Secretary-General

1. The present report is submitted pursuant to General Assembly resolution 49/236 of 31 March 1995, in which the Assembly decided to authorize the renewal of the mandate of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) for a further period of six months and requested me, inter alia, to keep the Assembly fully informed of the implementation of the resolution.

2. On the day resolution 49/236 was adopted, the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) signed the Agreement on Identity and Rights of Indigenous Peoples. By my letter of 5 April 1995 to the Presidents of the General Assembly and the Security Council (A/49/882-S/1995/256), I conveyed the text of the Agreement for the information of Member States. This is the sixth agreement signed by the parties since January 1994 and it deals with a particularly important and sensitive issue in the Guatemalan context. Its far-reaching provisions were well received by indigenous organizations in Guatemala. The Assembly of Civil Society, a forum of civil society organizations established under the Framework Agreement of 10 January 1994 (A/49/61-S/1994/53), analysed the provisions of the Agreement and, in accordance with its mandate, endorsed it as a "national commitment". Indeed, as noted in the Agreement on Identity and Rights of Indigenous Peoples itself:

> "To overcome the age-old discrimination against indigenous peoples, the assistance of all citizens will be needed in the effort to change thinking, attitudes and behaviour."

I consider this Agreement to be a very auspicious development at the beginning of the International Decade of the World's Indigenous People and I trust its full implementation will inspire similar efforts elsewhere.

3. In that context, I recall that, as mentioned in my letters of 29 March and 5 April 1995 (A/49/879-S/1995/241; A/49/882-S/1995/256), the parties concurred that, while the Agreement on Identity and Rights of Indigenous Peoples as a whole would enter into force at the signing of a final peace agreement, those aspects which related to human rights should be implemented immediately. In addition, the parties requested that implementation of those aspects be verified by MINUGUA. Accordingly, I asked the Director of MINUGUA to review the Agreement and assess whether additional resources would be required to verify implementation of the additional commitments, so that I could make the necessary recommendations to the General Assembly. MINUGUA's assessment is attached as an annex to the present report. I recommend to the General Assembly that, should it authorize the extension of the Mission's mandate, additional resources be provided to MINUGUA in accordance with the assessment of the Director of MINUGUA, so that the Mission can ensure adequate verification of the human rights aspects of the Agreement and fulfil its mandate more effectively.

4. During the reporting period, MINUGUA continued to fulfil the verification mandate entrusted to it in the Comprehensive Agreement on Human Rights and to assist in strengthening national institutions and entities responsible for the protection of human rights. By my note of 29 June 1995 (A/49/929), I transmitted to the General Assembly the second report of the Director of MINUGUA covering the period from 21 February to 21 May 1995. This describes the context in which the Mission has been operating, the activities carried out by it, including a summary of several cases under consideration, and conclusions and recommendations regarding the human rights situation in Guatemala and implementation of the commitments contained in the Comprehensive Agreement on Human Rights. The report has been well received both in Guatemala and abroad.

5. In his conclusions and recommendations, the Director of MINUGUA stressed several positive elements, namely, the parties' cooperation with, and support for, the Mission's work, the virtual cessation of forcible military conscription, the widespread exercise of freedom of expression, the readiness of senior authorities of the Ministry of Interior and the National Police to promote the investigation and solving of crimes, restraint in the use of force by the police at demonstrations and evictions from rural estates, acknowledgment by the army that its troops were responsible for two cases of arbitrary detention and torture summarized in the first report, and the fact that the Government had not promoted the organization of new voluntary civil defence committees (CVDC). The report also took note of the fact that URNG had fulfilled its commitments to suspend the destruction of electric power pylons.

6. In the area of institution-building, the Director stressed the full support given by the Attorney-General of the Republic to the Agreement signed with MINUGUA concerning training of prosecutors, as well as the priority given by the

Government to the Programme for Strengthening the Rule of Law. He also took note of the important contribution made by the mass media, non-governmental organizations and other entities of civil society to public awareness of the need for respect for human rights and the struggle against impunity.

7. At the same time, the Director noted with concern that the greatest number of complaints admitted by the Mission referred to violations of the rights to life, integrity and security of person and to liberty, in which state agents were allegedly implicated or in which the State failed in its duty to provide guarantees. He also noted the widespread use of threats, the activities of illicit groups and the persistent abuses committed by CVDC members and military commissioners. He stressed that, in some cases, failure to observe due process of law constituted an actual miscarriage of justice, a situation that openly promoted impunity. The report emphasized that the various branches of Government shared responsibility for combating impunity, which continued to be the most serious obstacle to the exercise of human rights in Guatemala, and that the Executive should implement a comprehensive policy for combating it. The Director also noted that it would be highly desirable for political parties to include this priority in their programmes, thus ensuring that it would receive support following the forthcoming elections.

8. The report also noted that URNG had committed human rights violations and had failed to observe the commitment to end the suffering of the civilian population by making threats and taking action against civilian property for the purpose of collecting "war tax"; by unnecessarily endangering civilians not involved in the conflict during attacks on military bases and units; by laying mines and explosive devices in places where civilians work, live or circulate; and by taking reprisals.

9. Overall, the Director of MINUGUA believed that progress achieved since the installation of the Mission, while insufficient, demonstrated that with political will from the parties and commitment on the part of society as a whole it was possible to improve the situation of human rights in Guatemala. While thanking the Government of Guatemala and URNG for their support for, and cooperation with MINUGUA, I must, therefore, remind both parties of the terms of General Assembly resolution 49/236 and urge them to make a renewed effort to comply fully with their commitments under the Comprehensive Agreement on Human Rights and, in particular, to put into effect the recommendations contained in MINUGUA's first and second reports. I should also stress that it is incumbent upon all sectors of society to cooperate in the eradication of the culture of violence and intolerance mentioned in the reports.

10. The Comprehensive Agreement on Human Rights emphasized the importance of strengthening Guatemalan institutions to ensure the observance of human rights and the significance of international cooperation for that purpose. I am pleased to report a positive response by the international community to the invitation contained in resolution 49/236 to increase its support for institution-building and cooperation projects intended to strengthen the Guatemalan system for the protection of human rights. The Joint Unit formed by the United Nations Development Programme (UNDP) and MINUGUA has served, inter alia, as a focus for cooperation among United Nations agencies and programmes for projects in the human rights area. Following the establishment